



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,624	10/29/2001	Sahar Al-Malaika	13869	4809
23676	7590	05/26/2004	EXAMINER	
SHELDON & MAK, INC 225 SOUTH LAKE AVENUE 9TH FLOOR PASADENA, CA 91101			NILAND, PATRICK DENNIS	
		ART UNIT	PAPER NUMBER	
			1714	
DATE MAILED: 05/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/046,624	AL-MALAIKA, SAHAR	
	Examiner Patrick D. Niland	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 March 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28,66-71 and 75-102 is/are pending in the application.
- 4a) Of the above claim(s) 16,17,24,25,91,92,99 and 100 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15,18-23,26-28,66-71,75-90,93-98,101 and 102 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/29/01</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

1. The amendment of 3/16/04 has been entered. Claims 1-28, 66-71, and 75-102 are pending.

2. Applicant's election of group I, claims 1-28, 66-71, and 75-102 in the paper of 3/16/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 16-17, 24-25, 91-92, and 99-100 are withdrawn as being directed to a non-elected species.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 10, 18, 28, 66-69, 71, 75-83, 85, 93, and 102 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4394470 Werner et al..

Werner et al. discloses a method of injection molding PET containing carmelized or non-carmelized carbohydrates which fall within the scope of the instantly claimed polyols for the express purpose of limiting acetaldehyde formation in making bottles etc. See the abstract; column 1, lines 5-47; column 2, lines 5-16; column 3, lines 1-25;

column 4, lines 1-9; column 5, line 5; and the remainder of the document. It is expected that the caramel retains OH groups but the saccharides added according to column 3, lines 12-13 will be the instantly claimed polyols. Remaining DEG falls within the scope of the liquid of the instant claim 6 as do the liquid saccharides.

6. Claims 1-15, 18-23, 26-28, 66-71, 75-90, 93-98, and 101-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over by US Pat. No. 4394470 Werner et al. in view of US Pat. No. 5863964 Teumac et al. and US Pat. No. 5874517 Huang et al..

Werner et al. discloses a method of injection molding PET containing carmelized or non-carmelized carbohydrates which fall within the scope of the instantly claimed polyols for the express purpose of limiting acetaldehyde formation in making bottles etc. See the abstract; column 1, lines 5-47; column 2, lines 5-16; column 3, lines 1-25; column 4, lines 1-9; column 5, line 5; and the remainder of the document. It is expected that the caramel retains OH groups but the saccharides added according to column 3, lines 12-13 will be the instantly claimed polyols. Remaining DEG falls within the scope of the liquid of the instant claim 6 as do the liquid saccharides.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the method of Werner to make the instantly claimed bottle preforms because the instant specification shows it to be common to make such preforms with PET, Werner discloses using their compositions in the manufacture of food containers generically, and the improved results, such as acetaldehyde decrease would have been expected in bottle preforms made by the process of Werner. Such acetaldehyde

decrease would have been expected to prevent bleeding of the acetaldehyde from the preform to the bottle made therewith. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed hindered phenols as the stabilizers of Werner, column 4, line 9 because such compounds were known for use in PET and are known to stabilize against oxidative degradation prior to the instant invention. See Teumac et al. for its disclosure of the oxidative effects known to give acetaldehyde in polymers including PET and the use of tocopherols of the instant claims to prevent them. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed polyamides as these compounds were known to prevent aldehyde formation in PET prior to the instant invention as taught at page 4 of the instant specification. It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed hindered phenols because they are taught by Huang to decrease oxidation of PET and acetaldehyde formation. See the abstract; the examples; and the remainder of the document.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Niland whose telephone number is (571) 272-1121. The examiner can normally be reached on Monday through Friday from 10 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be

reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306>

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

pn

May 24, 2004



Patrick Niland
Primary Examiner
Art Unit 1714